

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

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CRIMINAL NO. 1:17CR51
(Judge Keeley)

JAMES L. LAURITA, JR.,

Defendants.

ORDER GRANTING UNOPPOSED MOTION TO CONTINUE
TRIAL [DKT. NO. 13] AND AMENDING SCHEDULE

On October 10, 2017, the defendant, James L. Laurita, Jr. ("Laurita"), moved to continue the pretrial deadlines in this case, as well as the jury trial scheduled for November 27, 2017. In support of his motion, Laurita avers that the Government recently disclosed approximately 23,000 pages of discovery, which will require additional time to review and "make informed decisions concerning possible pre-trial motions, defenses, mitigation, and the trial in this matter" (Dkt. No. 13). The Government does not oppose the motion. Id. at 2. For the reasons that follow, the Court **GRANTS** the motion and **CONTINUES** the trial of this case.

Under the Speedy Trial Act, 18 U.S.C. § 3161 et seq., a defendant generally must be brought to trial within 70 days of his initial appearance or the making public of the indictment, whichever last occurs. Certain time periods are excluded from this calculation, however, including the pendency of any pretrial motion (from its filing through the hearing or ruling on the motion), 18

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U.S.C. § 3161(h)(1)(D), and any delay resulting from a continuance granted in furtherance of the "ends of justice." 18 U.S.C. § 3161(h)(7)(A); see also Bloate v. United States, 130 S. Ct. 1345, 1358 (2010) ("[S]ubsection (h)(7) provides '[m]uch of the Act's flexibility,' and gives district courts 'discretion-within limits and subject to specific procedures-to accommodate limited delays for case-specific needs.'" (quoting Zedner v. United States, 547 U.S. 489, 498-99 (2006))).

Here, the Indictment was filed on September 19, 2017, and Laurita made his initial appearance on October 2, 2017 (Dkt. Nos. 1; 10). At that time, the Speedy Trial Clock was tolled by the Government's motion for a protective order, which the Court did not grant until October 5, 2017 (Dkt. Nos. 9; 12). The Speedy Trial Clock then ran from October 5 to October 10, 2017, when Laurita filed the instant motion to continue (Dkt. No. 13). Since that time, the Speedy Trial Clock has remained tolled at 4 days, with 66 days remaining.

After reviewing the matter, it is clear that, even with the exercise of due diligence, Laurita's attorney would be unable to effectively prepare for trial without a continuance. See 18 U.S.C. § 3161(h)(7)(B)(iv). Laurita and his attorney require additional time to review the voluminous discovery in this case and to assess

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whether any pretrial motions are appropriate. Therefore, pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by continuing this trial outweigh the interest of the public in a speedy trial because a continuance will provide the defendant and his attorney adequate time to prepare a defense. In **GRANTING** a continuance of the trial of this case, the Court notes that the Speedy Trial Clock will remain tolled at **4, with 66 days remaining**, until the new trial date of **January 29, 2018**.

Accordingly, the Court **RESCHEDULES** the jury selection and trial for **Monday, January 29, 2018**, at **9:30 A.M.**, to last **five** days. The Court therefore **ORDERS** that the following table of dates and deadlines shall govern the further preparation of this case:

TABLE OF DATES AND DEADLINES	
PRE-TRIAL MOTIONS	December 4, 2017
RESPONSES TO PRE-TRIAL MOTIONS	December 11, 2017
PRE-TRIAL MOTIONS HEARING	December 15, 2017, 1:30 P.M.
JENCKS ACT MATERIAL	January 15, 2018
GIGLIO AND ROVIARO	January 15, 2018
PROPOSED VOIR DIRE, JURY INSTRUCTIONS	January 15, 2018
MOTIONS IN LIMINE	January 15, 2018
RESPONSES TO MOTIONS IN LIMINE	January 19, 2018
PLEA AGREEMENT	January 15, 2018

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FINAL LIST OF WITNESSES	January 15, 2018
FINAL LIST OF EXHIBITS	January 15, 2018
PRETRIAL CONFERENCE	January 22, 2018 10:00 A.M.
TRIAL DATE	January 29, 2018 9:30 A.M. (five days)

1. **PRE-TRIAL MOTIONS**: All motions, including any motion for a bill of particulars pursuant to Fed. R. Crim. P. 7(f) and LRCrP 47.01, must be filed on or before **December 4, 2017**. All such motions must contain or be accompanied by a memorandum or brief presented at the time of filing setting forth the reasons and legal support for granting such motion. If this memorandum or brief is not presented at the time of filing, the motion will be dismissed. Responses to all such motions with legal support or memorandum must be filed on or before **December 11, 2017**.

2. **PRE-TRIAL MOTIONS HEARING**: A hearing on all motions, if referred to the Magistrate Judge by the Court, will be held by the Magistrate Judge on **December 15, 2017, at 1:30 P.M.** If any of the pre-trial motions require the taking of testimony, the party offering the testimony must notify the Magistrate Judge's Chambers seven days prior to the hearing to obtain a court reporter for the hearing. The defendant shall be present at the hearing on all pre-

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trial motions. The United States Marshals Service requires that subpoenas for witnesses be issued ten days prior to the hearing date in order for them to be able to serve the subpoenas.

3. JENCKS ACT MATERIAL: It is requested that the government disclose materials described in 18 U.S.C. § 3500 (Jencks Act material) on or before **January 15, 2018**.

4. GIGLIO AND ROVIARO: Rule 404(b), Giglio and Roviario evidence shall be disclosed on or before **January 15, 2018**.

5. PROPOSED VOIR DIRE AND JURY CHARGE: All proposed voir dire questions and proposed jury instructions shall be filed by counsel with the Court and opposing counsel on or before **5:00 P.M.** on **January 15, 2018**.

If the instructions, voir dire, verdict forms, and special interrogatories in this case are prepared on a computer in a software program compatible with WordPerfect or Microsoft Word, counsel are requested to send files containing those instructions in such a compatible format to the Court by email, care of Candace Levitsky at candace_levitsky@wvnd.uscourts.gov, with the email subject line including the case name and party proposing the instructions. If the request for an email with the noted information is not followed, sanctions may occur.

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6. **WITNESS LIST**: By 5:00 P.M. on January 15, 2018, counsel for each party shall file a list of probable witnesses and possible witnesses (identified as such), but not whether or not the defendant shall be a witness. The list shall state the full name and address of each witness and shall also contain a brief statement of the subject matter to be covered by each witness. Expert witnesses and record custodians shall be identified as such on the list.

7. **EXHIBIT LIST**: By 5:00 P.M. on January 15, 2018, counsel for each party shall file with the Court and with opposing counsel a list of exhibits to be offered at trial. In addition, counsel for each party shall number the listed exhibits with evidence tags which may be obtained from the Clerk and shall exchange a complete set of marked exhibits with opposing counsel (except for large or voluminous items or other exhibits that cannot be reproduced easily).

8. **MOTIONS IN LIMINE**: All motions in limine (which must be limited to matters actually in dispute) shall be filed by counsel on or before 5:00 P.M. on January 15, 2018. Responses to motions in limine are due on or before 5:00 P.M. on January 29, 2018.

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9. **PLEA AGREEMENT**: If this matter results in the formulation of a plea agreement, counsel shall submit to the Court the executed plea agreement or an unexecuted final proposed agreement by **5:00 P.M. on January 15, 2018.**

10. **PRETRIAL CONFERENCE**: A pre-trial conference shall be held before the Honorable Irene M. Keeley on **Monday, January 22, 2018, at 10:00 A.M.** at the **Clarksburg, West Virginia** point of holding court.

11. **TRIAL**: Jury selection in this action shall be held on **Monday, January 29, 2018, at 9:30 A.M.** at the **Clarksburg, West Virginia** point of holding court, to last five days. Trial will commence upon the completion of jury selection.

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: October 11, 2017.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE